DRAFT

Blue Ribbon Water Task Force

Minutes
October 22-23, 2003
Albuquerque, NM

Attendees: Brian Burnett, Bill Hume, Eileen Grevey Hillson, Joseph Maestas, Wayne Cunningham, Chuck Dumars, G.X. McSherry, Kyle Harwood, Howard Hutchinson, Manuel Trujillo, Louis Gariano, Steve Hernandez, Elmer Salazar, Bob Vocke, Conci Bokum, Stan Bulsterbaum, Barbara Johnson, Hoyt Pattison, Elmer Lincoln Jr., Paul Paryski, John D'Antonio, Estevan Lopez, Anne Watkins, and William Toribio attended the BRWTF meeting. OSE's D.L. Sanders (Chief Counsel), Mark Fesmire (Chief – LAP/HSB), Dario Rodriguez (LAP/HSB staff), Rick DeSimone (WATERS Manager), Bob Thompson (Water Rights Administration Program), Greg Ridgley (Legal Adjudication Program), and Gar Clark (ISTB/GIS Coordinator) attended/presented as a guests.

The next meeting of the BRWTF will be November 19-20, 2003 in Albuquerque.

Tom Morrison (OSE Hydrology Bureau) presented Critical Management Areas and Domestic Wells (see presentation handout) and the following points were made:

- OSE has procedures for defining CMAs;
- CMAs require heightened protection due to inadequate GW supply;
- CMAs are intended to prolong the life of existing wells;
- CMAs have a thin aquifer thickness or excessive water level decline;
- CMAs do no pertain to stream protection;
- Large GW withdrawals are associated with irrigation and municipal wells;
- Boundaries of CMAs are technically based using established methodology;
- Each CMA is unique;
- OSE has estimated 40-year water level declines due to fully exercising existing water rights;
- Water management objectives for the CMA are developed working with the regional water planning council;
- Define CMA based on rate of water level decline or remaining aquifer thickness;
- CMAs designated for six alluvial basins (Estancia, Middle Rio Grande, Tularosa, Mimbres, Lea, and Portales), which are critical due to large irrigation and municipal well diversions – domestic well use is very small;
- CMA restrictions apply to pending well applications, no new appropriations except for domestic wells, water rights may not be transferred into the CMA, and water rights may be moved within the CMA;
- Other Special Administrative Areas include Gila/San Francisco Basin (court decree), Nambe-Pojoaque (court limit), Roswell (court order), and contaminated sites (Albuquerque/Espanola) (OSE order);
- Domestic wells have a greater impact on surface stream flows compared to aquifer impacts;
- Domestic well water supply problems (low yielding and dry wells) typically in mountainous areas or areas in which aquifer conditions are poor, where well yields may be closely related to level of precipitation and well construction practices, and wells typically obtain GW from fractures: and
- Options exist for CMA management e.g., (1) don't modify CMA procedures & develop stream corridor area procedures and (2) expand CMS to potentially include stream depletions (need to distinguish when domestic wells may cause surface stream flow issues).

BRWT members made several points following the presentation:

- CMAs must be local/specific;
- Modeling for CMAs should not assume full utilization of all water rights – this is too conservative;
- Some areas may have too many domestic wells e.g., the Mimbres;

- Domestic/septic systems can cause water quality problems;
- Domestic wells can create conduits for migration of contaminants; and
- Long-term drought might impact CMA management strategies.

John D'Antonio discussed draft legislation "Domestic Well Statue Revision for CMAs and Critical Stream Areas" and "Domestic Well Permit Fee Increase Legislation" (see handouts) and made the following points:

- CMAs are site-specific – it is difficult to go to the legislature with a single bill;
- Designating a CMA results in a better understanding of the area;
- OSE doesn't want to administer CMAs when not necessary;
- Domestic well pumping can be limited and metered in CMAs today;
- Stream-connected connected aquifers are a concern (includes compact delivers and areas of mining);
- Sound science needs to be used in developing CMAs;
- The domestic well impact fees could be used to offset impacts of junior diverters ($500/well for 6000-7000 wells per year);
- A legislated domestic well fee demonstrates NM is taking action;
- OSE may pursue one or both pieces of legislation or a combination; and
- BRWTF comments should be provided to Anne Watkins by COB October 31, 2003.

BRWTF members offered the following comments on the draft domestic well/CMA/CSA legislation:

- Why limit domestic wells to 1 afy in areas of the state where 3 afy is not a problem;
- The fee legislation eliminates much of the discussion e.g., protecting existing water right holders;
- All domestic wells should be metered;
- OSE currently conditions domestic wells when needed e.g., the Gila Basin;
- Transfer of variable annual SW rights to domestic well could create problems; and
- Well fees could be increased administratively.

Estevan Lopez reviewed contents of the draft "2003 New Mexico State Water Plan" with Task Force members (see draft document) and made the following observations:

- The first public draft was reviewed with the ISC today (October 22, 2003);
- The public comment period for the draft 2003 NM SWP started today and runs through November 12, 2003
- The focus of the SWP is policy statements for the 2003 State Water Plan Act's substantive requirements set forth in Section C;
- Work plans will be developed consistent with Section D of the Act e.g., adjudications and WATERS;
- OSE is preparing for priority administration next Year (e.g., rules & regulations, meters & measuring, water masters, and water districts);
- The SWP will contain appendices e.g., public meetings, and SWP Town Hall;
- Each basin in NM will be discussed;
- The SWP will be presented to the Interim Committee on November 13, 2003;
- SWP presentations will be made to the Water Trust Board and Governor;
- The SWP will go to ISC for adoption December 17, 2003; and
- BRWTF members should provide comments by November 10, 2003 (nmwaterplan@ose.state.nm.us).

The following observations were made the following the SWP presentation:

- How will the SWP be implemented – what are the projects;
- How will federal/state relationships be coordinated – NM needs to be focused;
- The SWP needs to focus more on acequias;
- The SWP needs to address water courts;
- The SWP needs to look at new water sources;

- The SWP Act requires measuring of SW & GW (active water resource management is an important component of the SWP);
- The SWP needs more focus on the economic aspects of water;
- The SWP Town Hall document should be treated as input to the SWP and not the result of a legislative process - as it wasn't;
- The transfer of agricultural water to other uses is not adequately addressed;
- Environmental protection and ESA are here to stay and must be adequately addressed;
- The mined GW basin issue should be addressed;
- The SWP introduction could serve as an introduction to the issues facing NM; and
- Policy statements should be review to ensure that they really are policy statements.

D.L. Sanders made the following points during his water rights adjudications and hydrographic surveys discussion (A summary of current water issues and litigation in NM was provided.):

- OSE is building on what has been effective;
- In GW basins, do we mine and at what rate;
- GW/SW interactions must be managed to meet compacts;
- Adjudication establishes pre 1907 water rights, connects SW/GW for compact delivery and senior surface users, and provides for priority administration management;
- Some adjudications were initiated in the 60-70s and not completed due to resource constraints;
- Approximately 60% of NM is under adjudication;
- OSE must step back and re-evaluate prior to completing adjudications (understanding and technology have changed with passage of time);
- Most NM water is already appropriated;
- The market cost of water is increasing (can expect to pay $6000/af today);
- Federal/state coordination is needed;
- Adjudication input includes changing political, public, and judicial perspectives;
- Pueblo and Tribal water rights settlements are being negotiated concurrent with adjudications;
- New technologies are available to improve the adjudication process;
- Increased staffing is needed to expedite the adjudication process;
- Stream reaches cannot be adjudicated in a vacuum; and
- Within NM, there is competition for limited adjudication, settlement, and compact delivery resources.

Mark Fesmire, Dairo Rodriguez, Rick DeSimone, and Gar Clark covered the water rights adjudication, hydrographic surveys, water rights administration, Enterprise Management, and NM GIS Advisory Committee. The following points were made (see handouts for details):

- The Hydrographic Survey Bureau is to bring the discernable elements of water rights before the court for examination and adjudication;
- Elements include point of diversion, place of use, purpose of use, duty of water, priority date, and conveyance;
- Information gathering includes old & new aerials and maps, county land ownership information, OSE water right records, and field observations;
- A hydrographic survey file is prepared, published, provided to the court for assessment, and offers made for acceptance or rejection (if closure is not reached it goes to trial);
- Courts can reserve adjudication issues for later resolution e.g., water right date;
- OSE is attempting to make the adjudication process less adversarial/litigious;
- OSE has not aggressively pursued forfeiture and abandonment;
- Digital images have substantially improved the hydrographic survey process;
- Information sharing with electronic files/GIS platform is important;
- Archive digitizing is ongoing;
- OSE has two key database systems – Water Rights Administration (WATERS) and Hydrographic Survey/Adjudication (WRATS) that with database technology can provide an electronic database/GIS platform, a seamless process, corresponding files, electronic data exchange, and single taskings shared between groups;

- OSE is pursuing the Water Administration Technical Engineering Resource System (WATERS) – Enterprise web-based concept;
- The WATERS architecture is analytical (water right mapping [EGIS]) and transactional (WATERS and WRATS); and
- GISAC is pursuing aerial image-based statewide mapping/access/funding strategies.